

This record is a partial extract of the original cable. The full text of the original cable is not available.

051540Z Aug 05

UNCLAS ROME 002624

SIPDIS

STATE FOR EB/TRA, EUR/WE

E.O. 12958: N/A

TAGS: [FAIR IT AVIATION](#)

SUBJECT: ALITALIA DEFACTO COMPLIANCE WITH TSA REGULATION;
POSSIBLE PERMANENT SOLUTION

REF: A. ROME 2005

[1](#)B. STATE 94326

[1](#)1. Alitalia has been recently implementing the DHS/TSA No-Fly/Selectee requirements, albeit without explicit Italian legal authority. An Italian citizen (Claudio DIONESALVI, DOB: 6APR71, Italian PPT: 47478963Z) on the No-Fly list attempted to board a KLM flight from Rome to Mexico City July 29, which overflies U.S. airspace. After KLM refused to board Dionesalvi, he attempted to board an Alitalia flight from Rome to Amsterdam, where he apparently planned to board a flight to Mexico. Even though the Alitalia flight was intra-EU and not covered by DHS/TSA No-Fly regulations, Alitalia decided not to board Dionesalvi.

[1](#)2. Separately, MFA DG for the Americas Bisogniero told Charge August 2 that the MFA Legal Affairs Department had issued an opinion providing legal justification for Italian authorities to allow Alitalia to implement, DHS/TSA No-Fly/Selectee requirements. The legal underpinnings are found in 1) the EU law CE/261/2004 Art. 1, which contemplates denying boarding of an aircraft for security reasons; 2) Italian Civil code, Art. 1681, which holds air carriers liable for injury to passengers or damage to cargo unless the carrier can show it took all necessary measures to prevent injury and damage.

[1](#)3. The MFA sent a letter July 22 to the Ministries of Interior, and Transport, with copies to the Ministry of Justice and the Civil Aviation Authority (ENAC). The letter pointed out that all other EU Member States were in compliance with the DHS/TSA regulations and identified the two provisions as a legal basis for complying in Italy as well.
BORG

NNNN

2005ROME002624 - Classification: UNCLASSIFIED